

# **EXHIBIT 26**

## MOTION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT

authorities, the declaration of Maureen E. McFadden and all pleadings filed in this matter. A newly ascertained allegation, and is supported by the attached memorandum of points and This motion is based on the grounds that a plaintiff may amend a complaint to set forth file a first amended complaint.

United States District Court for the Northern District of California, located at 450 Golden Gate Avenue, San Francisco, CA, plaintiff Megan Kelly will move for an order granting her leave to file a first amended complaint.

PLEASE TAKE NOTICE that on April 4, 2008 at 9:00 a.m. in Courtroom 7 of the

## TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

Defendants,

Defensive,

APPLERA CORPORATION and DOES 1-20, MAUREEN E. MCFADDEN IN SUPPORT THEREOF

MEMORANDUM OF POINTS AND AMENDMENT COMPLAINT;

NOTICE OF MOTION AND MOTION FOR LEAVE TO FILE A FIRST

Case No.: C-07-3002 MMC

MEGAN KELLY,

Plaintiff,

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

ATTORNEY FOR PLAINTIFF

MEGAN KELLY

819 Bancroft Way  
Berkeley, CA 94710  
Ph (510) 845-5203  
Fax (510) 868-0976

LAW OFFICES OF MAUREEN E. MCFADDEN  
Maureen E. McFadden, SBN 203781

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MOTION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT

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MEGAN KELLY  
Attorney for Plaintiff

By: Maurleen E. McFadden

  
LAW OFFICES OF MAUREEN E. MCADDEN

DATED: February 29, 2008

attached hereto as Exhibit A.

proposed First Amended Complaint is lodged concurrently with Plaintiff's moving papers and is

MOTION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT

Rule 15(a) declares that leave to amend shall be freely given when justice requires; this mandate is to be heeded. If the underlying facts or circumstances relied upon by plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits. In the absence of any apparent or declared reason — such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of the allowance of the amendment, futility of amendment, etc. — the leave sought should, as the rules allow, be “freely given.” Of course, the grant of an opportunity to amend is within the discretion of the District Court, but outright refusal to grant leave without any justifying reason appealing for the denial is not an exercise of discretion; it is merely abuse of that discretion and inconsistent with the spirit of the federal rules.

Here, plaintiff only recently learned that Appleara is claiming that she was not disabled at all, necessitating the addition of the other protected categories, “regarded as” having a disability, and having a history of having a disability, to the pleadings. Also, since the time of the filing of

## Leave to Amend Should Be Granted

Plaintiff Meghan Kelly initially sued employer Applear Corporation for three claims: Failure to Engage in the Interactive Process; (2) Failure to Accommodate; and (3) Disability Discrimination, all relating to Ms. Kelly's ankle condition. These initial three claims related to Applear's conduct from January 2006 through April 2007, when the complaint was filed. An amended complaint is now necessary, to add additional allegations to the first three claims based on developments during the course of discovery in the case, and to add new claims for retaliation and disability discrimination, based on Applear's conduct since Ms. Kelly returned to work at Applear. Based on the federal policy of liberally granting leave to amend, this motion

## A. Introduction

## MEMORANDUM OF POINTS AND AUTHORITIES

## MOTION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT

13 requests that the Court grant this motion for leave to file an amended complaint.

12 Based on the foregoing argument and authority, Plaintiff Megan Kelly respectfully

11 **CONCLUSION**

10 efficiency and the interests of justice favor allowing Plaintiff to amend as requested.

9 Because the amended and new allegations are related to Plaintiff's original claims, judicial

8 Declaration ¶ 3). Immediately thereafter, Plaintiff sought to amend her pleadings with this Court.

7 complaint and allow Plaintiff to pursue it in court until February 20, 2008. (See McFadden

6 with the DFEH in November 2007. Despite the November filing, the DFEH failed to close this

5 pursuing these additional claims, in that a timely amended complaint of discrimination was filed

4 Appellea. This conduct began occurring in early Fall of 2007. Plaintiff has been diligent in

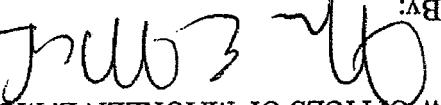
3 work in June 2007, she was subject to additional disability discrimination and retaliation by

2 Plaintiff wishes to supplement these allegations. Additionally, after Plaintiff finally returned to

1 this complaint, Appellea continued to fail to engage in the interactive process in good faith, and

15 DATED: February 29, 2008

16 LAW OFFICES OF MAUREEN E. MCADDEN

17 By:   
Maureen E. McFadden

18 MEGAN KELLY

19 Attorney for Plaintiff

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## MOTION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT

1. I am an attorney duly admitted to practice before this Court, and the attorney of record for Plaintiff Meghan Kelly in this action. I have personal knowledge of the facts set forth herein, and if called as a witness, could and would testify thereto.

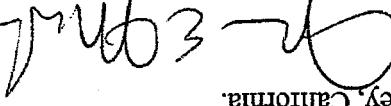
2. Attached hereto as Exhibit A is a true and correct copy of Plaintiff's proposed first amended complaint.

3. In November 2007, Plaintiff submitted an amended charge of discrimination to the DFEH, pertaining to discriminatory and retaliatory conduct defendant has engaged in since August 2007. True and correct copies of the amended DFEH charge, and the DFEH's February 20, 2008 Notice of Case Closure, are attached hereto as Exhibit B.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed on February 29, 2008 at Berkeley, California.

Maureen E. McFadden



## DECLARATION OF MAUREEN E. MCFADEEN

# EXHIBIT A

## FIRST AMENDED COMPLAINT FOR DAMAGES - 1

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1. Plaintiff Megan Kelly is an individual who resides in Alameda County.  
 2. From on or about February 2002 and continuing to the present, Plaintiff has been employed as an Associate Production Chemist at Applied Biosystems, which is part of Applica Corporation. At all times relevant hereeto, Plaintiff worked at Applica Corporation's Pleasanton location, which is in Alameda County. Plaintiff was at all times relevant to this action an "employee" of defendant Applica Corporation as that term is defined in California Govt. Code § 12926(c), part of the California Fair Employment and Housing Act ("FEHA"), Govt. Code § 12900 et seq.).

**GENERAL ALLEGATIONS**

Plaintiff Megan Kelly alleges as follows:

**JURY TRIAL DEMAND**

vs. **FIRST AMENDED COMPLAINT**  
 1. Failure to Engage in the Interactive Process in Good Faith (Jan. 2006)  
 APPLEA CORPORATION and DOES 1-20, Proces in Good Faith (Jan. 2006)  
 2. Failure to Accommodate Inclusive, Proces in Good Faith (2007)  
 3. Failure to Engage in the Interactive Process in Good Faith (2007)  
 4. Employment Discrimination - Disability  
 Defendants. Proces in Good Faith (2007)  
 5. Retaliation  
 Plaintiff Megan Kelly alleges as follows:

**SAN FRANCISCO DIVISION**

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

MEGAN KELLY  
 Attorney for Plaintiff

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 Berkeley, CA 94710  
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 Fax (510) 868-0976  
 Maureen E. McFadden, SBN 203781  
 LAW OFFICES OF MAUREEN E. MCFADEEN

## FIRST AMENDED COMPLAINT FOR DAMAGES - 2

physicians diagnosed Plaintiff with another ankle sprain, and she was again taken off of work.

9. On or about September 21, 2004, while moving about extensively and attending multiple tasks at the same time, Plaintiff re-injured her right ankle. Emergency room to Plaintiff was pressed to get orders done quickly, and was seldom able to sit down.

10. However, defendants were extraordinarily busy during this time frame, and short-handed. As part of her return to work, Plaintiff was supposed to be able to sit down whenever she needed 2004, after a short medical leave and physical therapy, Plaintiff was released to return to work.

8. On or about July 6, 2004, Plaintiff tripped and sprained her ankle. In September herein.

7. Plaintiff incorporates by reference paragraphs 1-6 above, as though fully set forth

## (Against all Defendants)

## Failure to Enforce in the Interceptive Process in Good Faith (January 2006)

## FIRST CLAIM FOR RELIEF

agency/employment, with the knowledge/consent of the remaining defendants.

the acts alleged, was acting both individually and within the course and scope of such 6. Each of the defendants was the agent of the remaining defendants, and in doing are therefore liable to her as alleged hereinafter.

each of the fictitiously named defendants is responsible for the wrongful acts alleged herein, and same becomes known to her. Plaintiff is informed and believes and based thereon alleges that leave to amend this complaint to insert the true names and capacities of said defendants when the this time and therefore said defendants are sued by such fictitious names. Plaintiff will seek otherwise of the defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at 5. The true names and capacities, whether individual, corporate, associate, associate, or

4. The acts and omissions described herein all occurred in Alameda County.

12926(d), 12940(a), and 12940(j)(4)(a).

herein has been Plaintiff's "employer" as that term is defined in California Govt. Code § § County, California at all times relevant herein. Appella Corporation is and all times relevant 3. Defendant Appella Corporation was a corporation doing business in Alameda

## FIRST AMENDED COMPLAINT FOR DAMAGES - 3

1. The re-injury was quite serious, in that Plaintiff's ankle did not heal well, and she continued experiencing serious instability in her right ankle. Tests performed by Plaintiff's disability insurer in or about January 2005 to evaluate Plaintiff's readiness to return to work seriously injured Plaintiff's left wrist, requiring a visit to the emergency room. Several subsequent falls further aggravated the ankle injury, and Plaintiff also sustained wrist injuries in some of those falls.

2. Plaintiff's serious instability in her right ankle. Tests performed by Plaintiff's disability insurer in or about January 2005 to evaluate Plaintiff's readiness to return to work seriously injured Plaintiff's left wrist, requiring a visit to the emergency room. Several subsequent falls further aggravated the ankle injury, and Plaintiff also sustained wrist injuries in some of those falls.

3. Plaintiff's serious instability in her right ankle. Tests performed by Plaintiff's disability insurer in or about January 2005 to evaluate Plaintiff's readiness to return to work seriously injured Plaintiff's left wrist, requiring a visit to the emergency room. Several subsequent falls further aggravated the ankle injury, and Plaintiff also sustained wrist injuries in some of those falls.

4. Plaintiff's serious instability in her right ankle. Tests performed by Plaintiff's disability insurer in or about January 2005 to evaluate Plaintiff's readiness to return to work seriously injured Plaintiff's left wrist, requiring a visit to the emergency room. Several subsequent falls further aggravated the ankle injury, and Plaintiff also sustained wrist injuries in some of those falls.

5. Plaintiff's serious instability in her right ankle. Tests performed by Plaintiff's disability insurer in or about January 2005 to evaluate Plaintiff's readiness to return to work seriously injured Plaintiff's left wrist, requiring a visit to the emergency room. Several subsequent falls further aggravated the ankle injury, and Plaintiff also sustained wrist injuries in some of those falls.

6. Plaintiff's serious instability in her right ankle. Tests performed by Plaintiff's disability insurer in or about January 2005 to evaluate Plaintiff's readiness to return to work seriously injured Plaintiff's left wrist, requiring a visit to the emergency room. Several subsequent falls further aggravated the ankle injury, and Plaintiff also sustained wrist injuries in some of those falls.

7. Plaintiff's serious instability in her right ankle. Tests performed by Plaintiff's disability insurer in or about January 2005 to evaluate Plaintiff's readiness to return to work seriously injured Plaintiff's left wrist, requiring a visit to the emergency room. Several subsequent falls further aggravated the ankle injury, and Plaintiff also sustained wrist injuries in some of those falls.

8. Plaintiff's serious instability in her right ankle. Tests performed by Plaintiff's disability insurer in or about January 2005 to evaluate Plaintiff's readiness to return to work seriously injured Plaintiff's left wrist, requiring a visit to the emergency room. Several subsequent falls further aggravated the ankle injury, and Plaintiff also sustained wrist injuries in some of those falls.

9. Plaintiff's serious instability in her right ankle. Tests performed by Plaintiff's disability insurer in or about January 2005 to evaluate Plaintiff's readiness to return to work seriously injured Plaintiff's left wrist, requiring a visit to the emergency room. Several subsequent falls further aggravated the ankle injury, and Plaintiff also sustained wrist injuries in some of those falls.

10. Plaintiff's ankle condition is a physical impairment that limited her ability to perform major life activities, including the major life activity of work. Plaintiff's ankle condition constituted a physical disability within the meaning of Govt. Code § 12926(k).

11. As to her ankle condition, Plaintiff was also regarded and treated by defendant as having, or having had, a physical disability that makes the achievement of a major life activity more difficult, within the meaning of the Fair Employment and Housing Act.

12. From July 2004 and continuing to the present, Defendant has been aware of Plaintiff's ankle condition, such that Plaintiff had a record or history of having a physical disability known to defendant, within the meaning of the Fair Employment and Housing Act.

13. The severity of Plaintiff's disability required her to remain off of work for a period of time. Plaintiff presented defendant with physicians' notes in support of her requests for time off of work. Plaintiff also regularly left telephone messages with her immediate supervisor, Jonathan Laositi, regarding her status and the progress of her recovery.

14. In January 2006, Plaintiff's physicians determined that she was well enough to return to work, with restrictions on the number of hours she could work, a restriction on lifting any more than 20 lbs, and a requirement that she sit down every hour for at least 10 minutes.

15. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

16. Plaintiff provided defendant with a physician's note authorizing her to return to work, and Plaintiff explained that she was authorized to return to work, and the nature of her work restrictions.

17. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

18. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

19. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

20. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

21. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

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23. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

24. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

25. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

26. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

27. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

28. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

## FIRST AMENDED COMPLAINT FOR DAMAGES - 4

16. Defendant made no effort to get plaintiff back to work. Instead, the company  
summarily informed plaintiff that she could not return to work at least 20 hours a week without  
restrictions, or 40 hours with restrictions.

17. Govt. Code § 12940(n) makes it illegal "for an employer . . . to fail to engage in a  
timely, good faith interactive process with the employee or applicant to determine effective  
reasonable accommodation by an employee or applicant with a known physical or mental  
disability or known medical condition."

18. By refusing to give any consideration whatsoever to plaintiff's request for  
accommodation, defendants violated their obligation to engage in the interactive process,  
contrary to Govt. Code § 12940(n).

19. Plaintiff filed a timely charge of disability discrimination with the California  
Department of Fair Employment and Housing (DFEH), naming Applied Biosystems as a  
respondent in the body of said complaint. Plaintiff has received a right to sue notice for this  
charge pursuant to Govt. Code § 12965(b). Plaintiff filed this action within one year from the  
date she received her "right to sue" letter from the DFEH, and has therefore properly exhausted  
her administrative remedies.

20. As a direct and proximate result of the wrongful acts of defendants, and each of  
them, plaintiff has suffered and continues to suffer physical pain, severe emotional distress,  
including without limitation, depression, hopelessness, embarrassment, humiliation, degradation,  
loss of self-esteem, and mental anguish. As a result, plaintiff is entitled to general and  
incurred and will continue to incur attorney's fees and costs. Plaintiff is entitled to recover such  
described herein, plaintiff has been forced to hire an attorney to prosecute her claims, and has  
incurred, fees and costs under Govt. Code § 12965(b).

21. As a further direct and proximate result of the wrongful acts of defendants  
compensatory damages according to proof.

22. As a further direct and proximate result of the wrongful acts of defendants  
and purpose of injuring her. Defendants, through their officers, managing agents and/or  
fraud, and oppression, with conscious disregard for plaintiff's rights, and with the intent, design  
22. The outrageous conduct of defendants described herein was done with malice,  
attorneys' fees and costs under Govt. Code § 12965(b).

23. Plaintiff has been forced to hire an attorney to prosecute her claims, and has  
described herein, plaintiff has been forced to hire an attorney to prosecute her claims, and has  
incurred, fees and costs under Govt. Code § 12965(b).

24. Plaintiff is entitled to recover such attorney's fees and costs under Govt. Code § 12965(b).

25. Plaintiff is entitled to recover such attorney's fees and costs under Govt. Code § 12965(b).

26. Plaintiff is entitled to recover such attorney's fees and costs under Govt. Code § 12965(b).

27. Plaintiff is entitled to recover such attorney's fees and costs under Govt. Code § 12965(b).

28. Plaintiff is entitled to recover such attorney's fees and costs under Govt. Code § 12965(b).

1. Supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason  
 2. thereof, Plaintiff is entitled to punitive or exemplary damages from all defendants in a sum  
 3. according to proof at trial.  
 4. **SECOND CLAIM FOR RELIEF**  
 5. **Failure to Accommodate**  
 6. **(Against all Defendants)**  
 7. Plaintiff incorporates by reference paragraphs 1-22 above, as though fully set  
 8. forth herein.  
 9. 23. Plaintiff incorporates by reference paragraphs 1-22 above, as though fully set  
 10. Plaintiff's ankle condition. Despite actual knowledge of Plaintiff's disability, and multiple  
 11. requests for accommodation, defendants refused to offer any reasonable accommodations to  
 12. allow Plaintiff to return to work. In doing the foregoing acts, defendants failed to accommodate  
 13. Plaintiff's disability, in violation of Govt. Code § 12940(m).  
 14. 24. Pursuant to Govt. Code § 12940(m), defendants had a duty to accommodate  
 15. Department of Fair Employment and Housing (DFEH), naming Applied Biosystems (a name  
 16. under which Appleta does business) as a respondent in the body of said complaint. Plaintiff has  
 17. received a right to sue notice for this charge pursuant to Govt. Code § 12965(b). Plaintiff filed  
 18. this action within one year from the date she received her "right to sue" letter from the DFEH,  
 19. and has therefore properly exhausted her administrative remedies.  
 20. 26. As a direct and proximate result of the wrongful acts of defendants, and each of  
 21. them, Plaintiff has suffered and continues to suffer physical pain, severe emotional distress,  
 22. including without limitation, depression, hopelessness, embarrassment, humiliation, degradation,  
 23. loss of self-esteem, and mental anguish. As a result, Plaintiff is entitled to general and  
 24. compensatory damages according to proof.  
 25. 27. As a further direct and proximate result of the wrongful acts of defendants  
 26. described herein, Plaintiff has been forced to hire an attorney to prosecute her claims, and has  
 27. incurred and will continue to incur attorney fees and costs. Plaintiff is entitled to recover such  
 28. attorneys' fees and costs under Govt. Code § 12965(b).

28. The outrageous conduct of defendants described herein was done with malice, fraud, and oppression, with conscious disregard for plaintiff's rights, and with the intent, design and purpose of injuring her. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

29. Plaintiff incorporates by reference paragraphs 1-28 above, as though fully set forth herein.

30. In February 2007, after Appleara told plaintiff it was going to terminate her, plaintiff again advised the company of her work restrictions, and requested accommodations that would allow her to return to work. Plaintiff kept defendants advised of her work restrictions at all times thereafter.

31. Despite plaintiff's requests, defendant delayed having an interactive meeting with plaintiff, and then further delayed her return to work until June 2007.

32. Govt. Code § 12940(a) makes it illegal "for an employer . . . to fail to engage in a timely, good faith interactive process with the employee or applicant to determine effective reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition."

33. By engaging in the above-referenced conduct during 2007, defendants violated their obligation to engage in the interactive process in good faith, contrary to Govt. Code § 12940(a).

34. As a direct and proximate result of the wrongful acts of defendants, and each of them, plaintiff has suffered and continues to suffer physical pain, severe emotional distress, including without limitation, depression, hopelessness, embarrassment, humiliation, degeneration,

#### THIRD CLAIM FOR RELIEF

<sup>10</sup>Failure to Engage in the Interactive Process in Good Faith (2007)

(Against all Defendants)

28. Employee meeting. She found out about the meeting accidentally, shortly before it was  
 27. b. In or about September 2007, Plaintiff was not notified of an all-hands  
 26. continue to occur, to Plaintiff's detriment.  
 25. failed to timely rectify this error. Despite Plaintiff's complaints, the errors in her paychecks  
 24. the hours she worked. In August 2007, Appleby shorted Plaintiff 20 hours on her paycheck, and  
 23. a. Plaintiff has repeatedly been given given paychecks which inaccurately reflect  
 22. disability discrimination, including the following examples:  
 21. 39. After Plaintiff returned to work in June 2007, defendant engaged in further  
 20. Plaintiff's physical disabilities.  
 19. allow Plaintiff to return to work, were adverse and discriminatory actions taken based on  
 18. 38. The above-described conduct, including but not limited to defendant's refusal to  
 17. forth herein.  
 16. 37. Plaintiff incorporates by reference paragraphs 1-36 above, as though fully set  
 15. (Against All Defendants)  
 14. **EMPLOYMENT DISCRIMINATION - DISABILITY**  
 13. **FOURTH CLAIM FOR RELIEF**  
 12. according to proof at trial.  
 11. therefore, Plaintiff is entitled to punitive or exemplary damages from all defendants in a sum  
 10. supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason  
 9. and purpose of injuring her. Defendants, through their officers, managing agents and/or  
 8. fraud, and oppression, with conscious disregard for Plaintiff's rights, and with the intent, design  
 7. 36. The outrageous conduct of defendants described herein was done with malice,  
 6. attorneys', fees and costs under Govt. Code § 12965(b).  
 5. incurred and will continue to incur attorneys' fees and costs. Plaintiff is entitled to recover such  
 4. described herein, Plaintiff has been forced to hire an attorney to prosecute her claims, and has  
 3. 35. As a further direct and proximate result of the wrongful acts of defendants  
 2. compensatory damages according to proof.  
 1. loss of self-esteem, and mental anguish. As a result, Plaintiff is entitled to general and

## FIRST AMENDED COMPLAINT FOR DAMAGES - 8

1. Scheduled to begin. Plaintiff tried to attend the meeting, but found out that it had been rescheduled to in a second floor location that was inaccessible to her because of her disability, in that it had unsafe stairs and no elevator. Before the meeting took place, plaintiff had asked her supervisor to provide with her notes about what happened at the meeting. Plaintiff still had to make multiple requests for this information before it was provided. The information plaintiff's supervisor finally provided about the meeting contained various acronyms unknown to plaintiff. Plaintiff's supervisor refused to clarify what the acronyms mean.

2. Plaintiff's supervisor refused to clarify what the acronyms mean.

3. Plaintiff's supervisor refused to clarify what the acronyms mean.

4. Plaintiff's supervisor refused to clarify what the acronyms mean.

5. Plaintiff's supervisor refused to clarify what the acronyms mean.

6. Plaintiff's supervisor refused to clarify what the acronyms mean.

7. Plaintiff's supervisor refused to clarify what the acronyms mean.

8. In or about September 2007, plaintiff was not notified of an official company sponsored barbecue event which the other employees and the leaders of the company attended. If defendant had provided plaintiff with notice of this event, she would have rearranged her schedule to ensure her attendance at the barbecue.

9. Since returning to work in June 2007, plaintiff has not received notice of numerous other events, including birthday parties. Plaintiff has also failed to receive notification of important company changes in methods of production/packaging.

10. The above-described constitutes discriminatory changes in the terms and conditions of plaintiff's employment, based on her disability.

11. Plaintiff filed a timely charge of disability discrimination with the California Department of Fair Employment and Housing (DFEH), naming Applied Biosystems as a respondent in the body of said complaint. Plaintiff received a right to sue notice for this charge pursuant to Govt. Code § 12965(b). Plaintiff filed an amended charge of discrimination against Applied Biosystems/Appleria with the DFEH, alleging disability discrimination and retaliation based on Appleria's above-described conduct since plaintiff returned to work in June 2007.

12. Plaintiff filed this action within one year from the date she received her "right to sue" letter from the DFEH, and has therefore properly exhausted her administrative remedies.

13. Plaintiff filed this action within one year from the date she received her "right to sue" letter from the DFEH, and has therefore properly exhausted her administrative remedies.

14. Plaintiff filed this action within one year from the date she received her "right to sue" letter from the DFEH, and has therefore properly exhausted her administrative remedies.

15. Plaintiff filed this action within one year from the date she received her "right to sue" letter from the DFEH, and has therefore properly exhausted her administrative remedies.

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22. Plaintiff filed this action within one year from the date she received her "right to sue" letter from the DFEH, and has therefore properly exhausted her administrative remedies.

23. Plaintiff filed this action within one year from the date she received her "right to sue" letter from the DFEH, and has therefore properly exhausted her administrative remedies.

24. Plaintiff filed this action within one year from the date she received her "right to sue" letter from the DFEH, and has therefore properly exhausted her administrative remedies.

25. Plaintiff filed this action within one year from the date she received her "right to sue" letter from the DFEH, and has therefore properly exhausted her administrative remedies.

26. Plaintiff filed this action within one year from the date she received her "right to sue" letter from the DFEH, and has therefore properly exhausted her administrative remedies.

27. Plaintiff filed this action within one year from the date she received her "right to sue" letter from the DFEH, and has therefore properly exhausted her administrative remedies.

28. Plaintiff filed this action within one year from the date she received her "right to sue" letter from the DFEH, and has therefore properly exhausted her administrative remedies.

47. Plaintiff engaged in protected activity by complaining about and opposing the discrimination against her, by filing charges with the DFEH, by filing a lawsuit against Appela, and by otherwise exercising her rights under FEHA, including but not limited to making requests for accommodation for her disability.

46. Plaintiff incorporates by reference paragraphs 1-45 above, as though fully set forth herein.

(Against All Defendants)

Retaliation

**FIRST CLAIM FOR RELIEF**

45. The outrageous conduct of defendants described herein was done with malice, fraud, and oppression, with conscious disregard for plaintiff's rights, and with the intent, design and purpose of injuring her. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

44. As a further direct and proximate result of the wrongful acts of defendants compensatory damages according to proof.

43. As a direct and proximate result of the wrongful acts of defendants, and each of them, plaintiff has suffered and continues to suffer physical pain, severe emotional distress, including without limitation, depression, hopelessness, embarrassment, humiliation, degradation, loss of self-esteem, and mental anguish. As a result, plaintiff is entitled to general and attorney's fees and costs under Govt. Code § 12965(b).

42. Plaintiff, all in an amount subject to proof at the time of trial. Plaintiff claims such amounts as damages together with prejudgment interest pursuant to Civil Code § 3287 and or Civil Code § 3288 and/or any other provision of law providing for prejudgment interest.

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1. 48. Adverse employment actions taken against Plaintiff, with reference to the totality of Applear's conduct towards Plaintiff, include the conduct described above, and: (1) refusing to allow Plaintiff to return to work; (2) incorrectly paying Plaintiff; (3) not inviting Plaintiff to company meetings and events; and (4) holding meetings in areas inaccessible to Plaintiff because of her disability. A causal connection exists between Plaintiff's protected activities and these adverse employment actions.

2. 49. Plaintiff filed a timely charge of retaliation with the California Department of Fair Employment and Housing (DFEH), naming Applied Biosystems/Applear as a respondent in the body of said complaint. Plaintiff received a right to sue notice for this charge pursuant to Govt. Code § 12965(b). Plaintiff filed this action within one year from the date she received her "right to sue" letter from the DFEH, and has therefore properly exhausted her administrative remedies.

3. 50. As a direct and proximate result of the wrongful actions of defendants, Plaintiff has been harmed in that she has suffered actual, consequential and incidental financial losses, including without limitation, loss of earnings and other employment benefits and the intangible loss of employment-related opportunities for growth in her field and damage to her professional reputation, all in an amount subject to proof at the time of trial. Plaintiff claims such amounts as damages together with prejudgment interest pursuant to Civil Code § 3287 and/or Civil Code § 3288 and/or any other provision of law providing for pre-judgment interest.

4. 51. As a direct and proximate result of the wrongful acts of defendants, and each of them, Plaintiff has suffered and continues to suffer physical pain, severe emotional distress, including without limitation, depression, hopelessness, embarrassment, humiliation, degradation, loss of self-esteem, and mental anguish. As a result, Plaintiff is entitled to general and compensatory damages according to proof.

5. 52. As a further direct and proximate result of the wrongful acts of defendants described herein, Plaintiff has been forced to hire an attorney to prosecute her claims, and has incurred and will continue to incur attorneys' fees and costs under Govt. Code § 12965(b).

LAW OFFICES OF MAUREEN E. MCADDEN

DATE: February 29, 2008

## JURY TRIAL DEMANDED

1. For compensatory and general damages in an amount according to proof;
2. For emotional distress;
3. For punitive damages;
4. For statutory attorney's fees and costs;
5. For pre-judgment and post-judgment interest according to any applicable provision of law, according to proof;
6. For costs of suit; and
7. For such other and further relief as the court deems proper.

WHEREFORE, Plaintiff requests the following judgment and relief:

according to proof at trial.

thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason and purpose of injuring her. Defendants, through their officers, managing agents and/or fraud, and oppression, with conscious disregard for plaintiff's rights, and with the intent, design, 53. The outrageous conduct of defendants described herein was done with malice,

# EXHIBIT B

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

NOTICE OF CASE CLOSURE

Dear MAUREEN E. MCADDEN:

MEGAN/APPLERA CORPORATION (AKA) APPLIED BIOSYSTEMS

RE: E200607A0570-01-pc

BERKELEY, CA 94710

819 BANCROFT WAY

LAW OFFICE OF MAUR

ATTORNEY AT LAW

MAUREEN E. MCFAADD

February 20, 2008



(510) 622-2973 TTY (800) 700-2320 Fax (510) 622-2952  
www.dfeh.ca.gov

## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

STATE OF CALIFORNIA - STATE AND CONSUMER SERVICES AGENCY

DFEH-200-43 (06/06)

FOSTER CITY, CA 94508  
850 LINCOLN CENTRE DR.  
AKA APPLIED BIOSYSTEMS  
APPLERA CORPORATION  
HUMAN RESOURCE DIRECTOR

CC: Case File

Herbster Yarborough  
District Administrator



Sincerely,

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Notice of Case Closure  
Page Two

Exhibit 26-31

STATE OF CALIFORNIA

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING  
D-4-H-300-03 (01/65)

DATE FILED:

415

At Berkeley

I wish to pursue this matter in court, hereby request that the Department of Fair Employment and Housing provide a right-to-sue notice. I understand that if I went to federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH Notice of Case Closure, or within 300 days of the alleged discriminatory act, whichever is earlier.

I wish to pursue this matter in court. I hereby request that the Department of Justice, as the Immigration District Office, be so informed.

you believe to be reasonable(s) State What

The reason given by \_\_\_\_\_ See Attachment A  
Name of Person and job title

Name of Person and Job Title

The reason given by \_\_\_\_\_ See Attachment A

because of my  sex  gender orientation  physical disability  race  religion  gender characteristic  marital status  sexual orientation  age  education  previous participation in investigations,  (Client and Client's  immediate family members,  friends,  neighbors,  relatives,  associates,  business associates,  employer,  supervisor/manager,  detective/efc)

COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT  
DE# E200607A-0570-01-prc  
THIS IS RELATED TO DE# E2007A0570  
DE# USE ONLY  
DE# USE ONLY  
CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING  
CASE# E2007A0570

Exhibit 36-33

Apple's constitutes disability discrimination (including as to the terms and conditions of employment) and a failure to accommodate. Apple's conduct is also retaliatory, based on my having protested the company's discriminatory practices, and for having filed an earlier DFEH charge and lawsuit alleging disability discrimination.

(3) In or about October 2007, Apple failed to notify me about an official company sponsored barbecue event which the other employees and the leaders of the company attended. If Apple had given me notice of this event, I would have rearranged my schedule to ensure my attendance at the barbecue.

(2) In or about September 2007, I was not notified of an all-hands employee meeting. I found out about the meeting accidentally, shortly before it was scheduled to begin. I tried to attend the meeting, but found out it had been scheduled for a location that was not accessible to me given my disability, in that it had unsafe stairs, and no elevator.

(1) In or about August 2007, I was shorted 20 hours on my paycheck. I had earned for that time period. Further issues with incorrect pay have continued to immediately notified Apple, but it failed to timely rectify the non-payment of all wages since my return, the following has occurred:

After a leave of absence due to my disability (andle injury and complications stemming from that injury) I returned to work at Apple BioSystems on or about June 18, 2007. Since my return, the following has occurred:

Meagan Kelly/Apple Corporation

Attachment A

Document 27-4 Filed 8/27/13 Page 1 of 1

MOTION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT

PLAISE TAKE NOTICE that on April 4, 2008 at 9:00 a.m. in Courtroom 7 of the United States District Court for the Northern District of California, located at 450 Golden Gate Avenue, San Francisco, CA, Plaintiff Megan Kelly will move for an order granting her leave to file a first amended complaint.

This motion is based on the grounds that a plaintiff may amend a complaint to set forth newly asserted allegations, and is supported by the attached memorandum of points and authorities, the declaration of Maureen E. McFadden and all pleadings filed in this matter. A

TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

MEGAN KELLY,	Plaintiff,	vs.	APPLERA CORPORATION and DOES 1-20,	inclusive,
NOTICE OF MOTION AND MOTION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT;				
MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATION OF MAUREREN E. MCFADDEN IN SUPPORT THEREOF				
Date: April 4, 2008 Time: 9:00 a.m. Courtroom 7, 19th Floor The Honorable Maxine M. Chesney				
Defendants.				

## SAN FRANCISCO DIVISION

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

McArdle, Maureen E. *LAW OFFICES OF MAUREEN E. MCADDEEN*  
203781 SBN, McArdle, Maureen E. *819 BANCROFT WAY*  
Berkeley, CA 94710 Ph (510) 845-5203  
Fax (510) 868-0976 *ATTORNEY FOR PLAINTIFF*  
McGREGOR KELLY

## MOTION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT

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MEGAN KELLY  
Attorney for Plaintiff

By: Maurleen E. McFadden

LAW OFFICES OF MAUREEN E. MCFADDEN

DATE: February 29, 2008

attached hereto as Exhibit A.

Proposed First Amended Complaint is lodged concurrently with Plaintiff's moving papers and is

## MOTION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT

28 and having a history of having a disability, to the pleadings. Also, since the time of the filing of  
 27 all, necessitating the addition of the other protected categories, "regarded as" having a disability,  
 26 Here, Plaintiff only recently learned that Appellee is claiming that she was not disabled at  
 25

24 of the federal rules.  
 23 of discretion; it is merely abuse of that discretion and inconsistent with the spirit  
 22 the leave without any justifying reason appealing for the denial is not an exercise  
 21 amend is within the discretion of the District Court, but outright refusal to grant  
 20 requirement, be "freely given." Of course, the grant or denial of an opportunity to  
 19 amendment, utility of amendment, etc. – the leave sought should, as the rules  
 18 allowed, undue prejudice to the opposing party by virtue of the allowance of the  
 17 Rule 15(a) declares that leave to amend shall be freely given when justice  
 16 stated by the United States Supreme Court in *Foman v. Davis* 371 U.S. 178, 182 (1962):  
 15 Rule 15(a) further provides that, "leave shall be freely given when justice so requires." As was  
 14 party may amend his pleading only by leave of court or by written consent of the adverse party."  
 13 Pursuant to Fed. R. Civ. Pro. Rule 15(a), once a responsive pleading has been served, "A  
 12 B. Leave to Amend Should Be Granted  
 11 should be granted.  
 10 work at Appellee. Based on the federal policy of liberally granting leave to amend, this motion  
 9 retaliation and disability discrimination, based on Appellee's conduct since Ms. Kelly returned to  
 8 based on developments during the course of discovery in the case, and to add new claims for  
 7 An amended complaint is now necessary, to add additional allegations to the first three claims  
 6 Appellee's conduct from January 2006 through April 2007, when the complaint was filed.  
 5 Discretion, all relating to Ms. Kelly's ankle condition. These initial three claims related to  
 4 Failure to Engage in the Interactive Process; (2) Failure to Accommodate; and (3) Disability  
 3 Plaintiff Megan Kelly initially sued employer Appellee Corporation for three claims:  
 2 A. Introduction  
 1

## MEMORANDUM OF POINTS AND AUTHORITIES

## MOTION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT

1 Case 3:07-cv-03002-MMC Document 26 Filed 02/29/2008 Page 4 of 22

2 Plaintiff wishes to supplement these allegations. Additionally, after Plaintiff finally returned to

3 work in June 2007, she was subject to additional disability discrimination and retaliation by

4 Appleara. This conduct began occurring in early Fall of 2007. Plaintiff has been diligent in

5 pursuing these additional claims, in that a timely amended complaint of discrimination was filed

6 with the DFEH in November 2007. Despite the November filing, the DFEH failed to close this

7 complaint and allow Plaintiff to pursue it in court until February 20, 2008. (See McFadden

8 Declaration ¶ 3) Immediately thereafter, Plaintiff sought to amend her pleadings with this Court.

9 Because the amended and new allegations are related to Plaintiff's original claims, judicial

10 efficiency and the interests of justice favor allowing Plaintiff to amend as requested.

11 **CONCLUSION**

12 Based on the foregoing argument and authority, Plaintiff Meggan Kelly respectfully

13 requests that the Court grant this motion for leave to file an amended complaint.

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DATED: February 29, 2008

LAW OFFICES OF MARYEEN E. MCFADDEN

By: Maryeen E. McFadden

MEGAN KELLY  
Attorney for Plaintiff

Exhibit A6-A7

## MOTION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT

1. I am an attorney duly admitted to practice before this Court, and the attorney of record for plaintiff Megan Kelly in this action. I have personal knowledge of the facts set forth herein, and if called as a witness, could and would testify thereto.

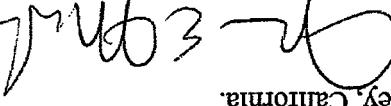
2. Attached hereto as Exhibit A is a true and correct copy of plaintiff's proposed first amended complaint.

3. In November 2007, plaintiff submitted an amended charge of discrimination to the DFEH, pertaining to discriminatory and retaliatory conduct defendant has engaged in since August 2007. True and correct copies of the amended DFEH charge, and the DFEH's February 20, 2008 Notice of Case Closure, are attached hereto as Exhibit B.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed on February 29, 2008 at Berkeley, California.

Maureen E. McFadden



## DECLARATION OF MAUREEN E. MCFADDEN

Exhibit 26-28

# EXHIBIT A

1. Plaintiff Megan Kelly is an individual who resides in Alameda County.  
2. From on or about February 2002 and continuing to the present, Plaintiff has been  
employed as an Associate Production Chemist at Applied Biosystems, which is part of Appleara  
Corporation. At all times relevant hereto, Plaintiff worked at Appleara Corporation's Pleasanton  
location, which is in Alameda County. Plaintiff was at all times relevant to this action an  
"employee" of defendant Appleara Corporation as that term is defined in California Govt. Code § §  
12926(c), part of the California Fair Employment and Housing Act ("FEHA," Govt. Code § §  
12900 et seq.).

---

**GENERAL ALLEGATIONS**

---

Plaintiff Megan Kelly alleges as follows:

### JURY TRIAL DEMANDED

MEGAN KELLY, Case No.: C-07-3002 MGC  
FIRST AMENDED COMPLAINT vs. APPLE CORP. and DOES 1-20, Inc.  
1. Failure to Engage in the Interactive Process in Good Faith (Jan. 2006)  
2. Failure to Accommodate  
3. Failure to Engage in the Interactive Process in Good Faith (Jan. 2007)  
4. Employment Discrimination - Disability  
5. Retaliation  
Defendants.  
Inclusive,

## SAN FRANCISCO DIVISION

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

MAUREEN E. MCFADDEN, SBN 203781  
LAW OFFICES OF MAUREEN E. MCFADDEN  
819 Bancroft Way  
Berkeley, CA 94710  
Ph (510) 845-5203  
Fax (510) 868-0976  
MEGAN KELLY  
Attorney for Plaintiff

herein.

8. On or about July 6, 2004, Plaintiff tipped and sprained her ankle. In September 2004, after a short medical leave and physical therapy, Plaintiff was released to return to work. As part of her return to work, Plaintiff was supposed to be able to sit down whenever she needed to. However, defendants were extraordinarily busy during this timeframe, and short-handed. Plaintiff was pressured to get orders done quickly, and was seldom able to sit down. 9. On or about September 21, 2004, while moving about extensively and attending to multiple tasks at the same time, Plaintiff re-injured her right ankle. Emergency room physicians diagnosed Plaintiff with another ankle sprain, and she was again taken off of work.

### (Against all Defendants)

Failure to Engage in the Interactive Process in Good Faith (January 2006)

**FIRST CLAIM FOR RELIEF**

3. Defendant Appleira Corporation was a corporation doing business in Alameda County, California at all times relevant hereto. Appleira Corporation is and all times relevant hereto has been Plaintiff's "employer" as that term is defined in California Govt. Code § 12926(d), 12940(a), and 12940(g)(4)(a).

4. The acts and omissions described herein all occurred in Alameda County.

5. The true names and capacities, whether individual, corporate, associate, or otherwise of the defendants named herein as DOEs 1-20, inclusive, are unknown to Plaintiff at this time and therefore said defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint to insert the true names and capacities of said defendants when the same becomes known to her. Plaintiff is informed and believes and based thereon alleges that each of the fictitiously named defendants is responsible for the wrongful acts alleged herein, and are therefore liable to her as alleged hereinafter.

6. Each of the defendants was the agent of the remaining defendants, and in doing the acts alleged, was acting both individually and within the course and scope of such agency/employment, with the knowledge/consent of the remaining defendants.

## FIRST AMENDED COMPLAINT FOR DAMAGES - 3

1. The re-injury was quite serious, in that Plaintiff's ankle did not heal well, and she continued experiencing serious instability in her right ankle. Tests performed by Plaintiff's disability insurer in or about January 2005 to evaluate Plaintiff's readiness to return to work set seriously injured Plaintiff's left wrist, requiring a visit to the emergency room. Several subsequent falls further aggravated the ankle injury, and Plaintiff also sustained wrist injuries in some of those falls.

2. The re-injury was quite serious, in that Plaintiff's ankle did not heal well, and she continued experiencing serious instability in her right ankle. Tests performed by Plaintiff's disability insurer in or about January 2005 to evaluate Plaintiff's readiness to return to work set seriously injured Plaintiff's left wrist, requiring a visit to the emergency room. Several subsequent falls further aggravated the ankle injury, and Plaintiff also sustained wrist injuries in some of those falls.

3. Plaintiff's ankle condition is a physical impairment that limited her ability to perform major life activities, including the major life activity of work. Plaintiff's ankle condition constituted a physical disability within the meaning of Govt. Code § 12926(k).

4. Plaintiff's ankle condition, as to her ankle condition, Plaintiff was also regarded and treated by defendant as having, or having had, a physical disability that makes the achievement of a major life activity more difficult, within the meaning of the Fair Employment and Housing Act.

5. Plaintiff's ankle condition, such that Plaintiff had a record or history of having a physical disability known to defendant, within the meaning of the Fair Employment and Housing Act.

6. Plaintiff's ankle condition, such that Plaintiff had a record or history of having a physical disability known to defendant, within the meaning of the Fair Employment and Housing Act.

7. Plaintiff's ankle condition is a physical impairment that limited her ability to perform major life activities, including the major life activity of work. Plaintiff's ankle condition constituted a physical disability within the meaning of Govt. Code § 12926(k).

8. Plaintiff's ankle condition, as to her ankle condition, Plaintiff was also regarded and treated by defendant as having, or having had, a physical disability that makes the achievement of a major life activity more difficult, within the meaning of the Fair Employment and Housing Act.

9. Plaintiff's ankle condition, such that Plaintiff had a record or history of having a physical disability known to defendant, within the meaning of the Fair Employment and Housing Act.

10. Plaintiff's ankle condition is a physical impairment that limited her ability to perform major life activities, including the major life activity of work. Plaintiff's ankle condition constituted a physical disability within the meaning of Govt. Code § 12926(k).

11. Plaintiff's ankle condition, as to her ankle condition, Plaintiff was also regarded and treated by defendant as having, or having had, a physical disability that makes the achievement of a major life activity more difficult, within the meaning of the Fair Employment and Housing Act.

12. From July 2004 and continuing to the present, Defendant has been aware of Plaintiff's ankle condition, such that Plaintiff had a record or history of having a physical disability known to defendant, within the meaning of the Fair Employment and Housing Act.

13. The severity of Plaintiff's disability required her to remain off of work for a period of time. Plaintiff presented defendant with physicians' notes in support of her requests for time off of work. Plaintiff also regularly left telephone messages with her immediate supervisor, Jonathan Laositi, regarding her status and the progress of her recovery.

14. In January 2006, Plaintiff's physicians determined that she was well enough to return to work, with restrictions on the number of hours she could work, a restriction on lifting any more than 20 lbs, and a requirement that she sit down every hour for at least 10 minutes.

15. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

16. Plaintiff provided defendant with a physician's note authorizing her to return to work, and explained that she was authorized to return to work, and the nature of her work restrictions.

17. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

18. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

19. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

20. In January 2006, Plaintiff's physicians determined that she was well enough to return to work, with restrictions on the number of hours she could work, a restriction on lifting any more than 20 lbs, and a requirement that she sit down every hour for at least 10 minutes.

21. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

22. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

23. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

24. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

25. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

26. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

27. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

28. Plaintiff's immediate supervisor failed to return Plaintiff's calls with regard to specifying these restrictions.

16. Defendant made no effort to get plaintiff back to work. Instead, the company  
2 summarily informed plaintiff that she could not return to work at least 20 hours a week without  
3 restrictions, or 40 hours with restrictions.  
4 17. Govt. Code § 12940(n) makes it illegal "for an employer . . . to fail to engage in a  
5 timely, good faith interactive process with the employee or applicant to determine effective  
6 reasonable accommodation by an employee or applicant with a known physical or mental  
7 disability or known medical condition."  
8 18. By refusing to give any consideration whatsoever to plaintiff's request for  
9 accommodation, defendants violated their obligation to engage in the interactive process,  
10 contrary to Govt. Code § 12940(n).  
11 19. Plaintiff filed a timely charge of disability discrimination with the California  
12 Department of Fair Employment and Housing (DFEH), naming Applied Biosystems as a  
13 respondent in the body of said complaint. Plaintiff has received a right to sue notice for this  
14 charge pursuant to Govt. Code § 12965(b). Plaintiff filed this action within one year from the  
15 date she received her "right to sue" letter from the DFEH, and has therefore properly exhausted  
16 her administrative remedies.

17. As a direct and proximate result of the wrongful acts of defendants, and each of  
18 them, plaintiff has suffered and continues to suffer physical pain, severe emotional distress,  
19 including without limitation, depression, hopelessness, embarrassment, humiliation, degradation,  
20 loss of self-esteem, and mental anguish. As a result, plaintiff is entitled to general and  
21 compensatory damages according to proof.

22. As a further direct and proximate result of the wrongful acts of defendants  
23 described herein, plaintiff has been forced to hire an attorney to prosecute her claims, and has  
24 incurred and will continue to incur attorneys' fees and costs. Plaintiff is entitled to recover such  
25 attorneys' fees and costs under Govt. Code § 12965(b).

26 22. The outrageous conduct of defendants described herein was done with malice,  
27 fraud, and oppression, with conscious disregard for plaintiff's rights, and with the intent, design  
28 and purpose of injuring her. Defendants, through their officers, managing agents and/or

1. supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason  
 2. thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum  
 3. according to proof at trial.

4. **SECOND CLAIM FOR RELIEF**

5. **Failure to Accommodate**

6. **(Against all Defendants)**

7. 23. Plaintiff incorporates by reference paragraphs 1-22 above, as though fully set  
 8. forth herein.

9. 24. Pursuant to Govt. Code § 12940(m), defendants had a duty to accommodate  
 10. plaintiff's ankle condition. Despite actual knowledge of plaintiff's disability, and multiple  
 11. requests for accommodation, defendants refused to offer any reasonable accommodations to  
 12. allow plaintiff to return to work. In doing the foregoing acts, defendants failed to accommodate  
 13. plaintiff's disability, in violation of Govt. Code § 12940(m).

14. 25. Plaintiff filed a timely charge of disability discrimination with the California  
 15. Department of Fair Employment and Housing (DFEH), naming Applied Biosystems (a name  
 16. under which Applica does business) as a respondent in the body of said complaint. Plaintiff has  
 17. received a right to sue notice for this charge pursuant to Govt. Code § 12965(b). Plaintiff filed  
 18. this action within one year from the date she received her "right to sue" letter from the DFEH,  
 19. and has therefore properly exhausted her administrative remedies.

20. 26. As a direct and proximate result of the wrongful acts of defendants, and each of  
 21. them, plaintiff has suffered and continues to suffer physical pain, severe emotional distress,  
 22. including without limitation, depression, hopelessness, embarrassment, humiliation, degradation,  
 23. loss of self-esteem, and mental anguish. As a result, plaintiff is entitled to general and  
 24. compensatory damages according to proof.

25. 27. As a further direct and proximate result of the wrongful acts of defendants  
 26. described herein, plaintiff has been forced to hire an attorney to prosecute her claims, and has  
 27. incurred and will continue to incur attorney's fees and costs. Plaintiff is entitled to recover such  
 28. attorney's fees and costs under Govt. Code § 12965(b).

28.	The outrageous conduct of defendants described herein was done with malice, fraud, and oppression, with conscious disregard for Plaintiff's rights, and with the intent, design and purpose of injuring her. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, Plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.
29.	Plaintiff incorporates by reference paragraphs 1-28 above, as though fully set forth herein.
30.	In February 2007, after Appleara told Plaintiff it was going to terminate her, Plaintiff again advised the company of her work restrictions, and requested accommodations that would allow her to return to work. Plaintiff kept defendants advised of her work restrictions at all times thereafter.
31.	Despite Plaintiff's requests, defendant delayed having an interactive meeting with Plaintiff, and then further delayed her return to work until June 2007.
32.	Govt. Code § 12940(n) makes it illegal "for an employer . . . to fail to engage in a timely, good faith interactive process with the employee or applicant to determine effective reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition."
33.	By engaging in the above-referenced conduct during 2007, defendants violated their obligation to engage in the interactive process in good faith, contrary to Govt. Code § 12940(n).
34.	As a direct and proximate result of the wrongful acts of defendants, and each of them, Plaintiff has suffered and continues to suffer physical pain, severe emotional distress, and outrage without limitation, depression, hopelessness, embarrassment, humiliation, degradation, and each of

28. Plaintiff found out about the meeting accidentally, shortly before it was  
 27. b. In or about September 2007, plaintiff was not notified of an all-hands  
 26. continue to occur, to plaintiff's detriment.  
 25. failed to timely rectify this error. Despite plaintiff's complaints, the errors in her paycheck, and  
 24. the hours she worked. In August 2007, Appelers shorted plaintiff 20 hours on her paycheck, and  
 23. a. Plaintiff has repeatedly been given paychecks which inaccurately reflect  
 22. disability discrimination, including the following examples:  
 21. 39. After plaintiff returned to work in June 2007, defendant engaged in further  
 20. plaintiff's physical disabilities.  
 19. allow plaintiff to return to work, were adverse and discriminatory actions taken based on  
 18. 38. The above-described conduct, including but not limited to defendant's refusal to  
 17. forth herein.  
 16. 37. Plaintiff incorporates by reference paragraphs 1-36 above, as though fully set  
 15. (Against all Defendants)  
 14. **Employment Discrimination - Disability**  
 13. **FOURTH CLAIM FOR RELIEF**  
 12. according to proof at trial.  
 11. thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum  
 10. supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason  
 9. and purpose of injuring her. Defendants, through their officers, managing agents and/or  
 8. fraud, and oppression, with conscious disregard for plaintiff's rights, and with the intent, design  
 7. 36. The outrageous conduct of defendants described herein was done with malice,  
 6. attorneys' fees and costs under Gov't. Code § 12965(b).  
 5. incurred and will continue to incur attorneys' fees and costs. Plaintiff is entitled to recover such  
 4. described herein, plaintiff has been forced to hire an attorney to prosecute her claims, and has  
 3. 35. As a further direct and proximate result of the wrongful acts of defendants  
 2. compensatory damages according to proof.  
 1. loss of self-esteem, and mental anguish. As a result, plaintiff is entitled to general and

1. Scheduled to begin. Plaintiff tried to attend the meeting, but found out that it had unsatisfactory stairs and no elevator. Before the meeting took place, plaintiff had asked her supervisor in a second floor location that was inaccessible to her because of her disability, in that it had multiple requests for this information before it was provided. The information plaintiff's supervisor finally provided about the meeting contained various acronyms unknown to plaintiff. Plaintiff's supervisor refused to clarify what the acronyms mean.

2. in or about September 2007, plaintiff was not notified of an official company sponsored barbecue event which the other employees and the leaders of the company attended. If defendant had provided plaintiff with notice of this event, she would have rearranged her schedule to ensure her attendance at the barbecue.

3. c. In or about September 2007, plaintiff was not notified of an official numerous other events, including birthday parties. Plaintiff has also failed to receive notification of important company changes in methods of production/packaging.

4. 40. The above-described conduct constitutes discriminatory changes in the terms and conditions of plaintiff's employment, based on her disability.

5. 41. Plaintiff filed a timely charge of disability discrimination with the California Department of Fair Employment and Housing (DFEH), naming Applied Biosystems as a respondent in the body of said complaint. Plaintiff received a right to sue notice for this charge pursuant to Govt. Code § 12965(b). Plaintiff filed an amended charge of discrimination against Applied Biosystems/Applied with the DFEH, alleging disability discrimination and retaliation based on Appler's above-described conduct since plaintiff returned to work in June 2007.

6. 42. As a direct and proximate result of the wrongful actions of defendants, plaintiff has been harmed in that she has suffered actual, consequential and incidental financial losses, including without limitation, loss of earnings and other employment benefits and the intangible loss of employment-related opportunities for growth in her field and damage to her professional 28

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47. Plaintiff engaged in protected activity by complaining about and opposing the discrimination against her, by filing charges with the DFEH, by filing a lawsuit against Appellee, and by otherwise exercising her rights under FEHA, including but not limited to making requests for accommodation for her disability.

46. Plaintiff incorporates by reference paragraphs 1-45 above, as though fully set forth herein.

(Against all Defendants)

### Retaliation

### FIFTH CLAIM FOR RELIEF

45. The outrageous conduct of defendants described herein was done with malice, fraud, and oppression, with conscious disregard for plaintiff's rights, and with the intent, design and purpose of injuring her. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

44. As a further direct and proximate result of the wrongful acts of defendants compensatory damages according to proof.

43. As a direct and proximate result of the wrongful acts of defendants, plaintiff has suffered and continues to suffer physical pain, severe emotional distress, including without limitation, depression, hopelessness, embarrassment, humiliation, degradation, loss of self-esteem, and mental anguish. As a result, plaintiff is entitled to general and punitive damages according to proof.

42. Damages together with prejudgment interest pursuant to Civil Code § 3287 and or Civil Code § 3288 and/or any other provision of law providing for prejudgment interest.

41. Reputation, all in an amount subject to proof at the time of trial. Plaintiff claims such amounts as damages together with prejudgment interest pursuant to Civil Code § 3287 and or Civil Code § 3288 and/or any other provision of law providing for prejudgment interest.

48. Adverse employment actions taken against Plaintiff, with reference to the totality of Appleara's conduct towards Plaintiff, include the conduct described above, and: (1) refusing to allow Plaintiff to return to work; (2) incorrectly paying Plaintiff; (3) not inviting Plaintiff to company meetings and events; and (4) holding meetings in areas inaccessible to Plaintiff because of her disability. A causal connection exists between Plaintiff's protected activities and these adverse employment actions.

49. Plaintiff filed a timely charge of retaliation with the California Department of Fair Employment and Housing (DFEH), naming Applied Biosystems/Appleara as a respondent in the body of said complaint. Plaintiff received a right to sue notice for this charge pursuant to Govt. Code § 12965(b). Plaintiff filed this action within one year from the date she received her "right to sue" letter from the DFEH, and has therefore properly exhausted her administrative remedies.

50. As a direct and proximate result of the wrongful actions of defendants, Plaintiff has been harmed in that she has suffered actual, consequential and incidental losses, including without limitation, loss of earnings and other employment benefits and the intangible loss of employment-related opportunities for growth in her field and damage to her professional reputation, all in an amount subject to proof at the time of trial. Plaintiff claims such amounts as damages together with prejudgment interest pursuant to Civil Code § 3287 and/or Civil Code § 3288 and/or any other provision of law providing for pre-judgment interest.

51. As a direct and proximate result of the wrongful acts of defendants, and each of them, Plaintiff has suffered and continues to suffer physical pain, severe emotional distress, including without limitation, depression, hopelessness, embarrassment, humiliation, degradation, loss of self-esteem, and mental anguish. As a result, Plaintiff is entitled to general and compensatory damages according to proof.

52. As a further direct and proximate result of the wrongful acts of defendants described herein, Plaintiff has been forced to hire an attorney to prosecute her claims, and has incurred and will continue to incur attorney's fees and costs. Plaintiff is entitled to recover such attorney's fees and costs under Govt. Code § 12965(b).

LAW OFFICES OF MAUREEN E. MCADDEN

DATED: February 29, 2008

## JURY TRIAL DEMANDED

1. For compensatory and general damages in an amount according to proof;
2. For emotional distress;
3. For punitive damages;
4. For statutory attorney's fees and costs;
5. For pre-judgment and post-judgment interest according to any applicable provision of law, according to proof;
6. For costs of suit; and
7. For such other and further relief as the court deems proper.

WHEREFORE, Plaintiff requests the following judgment and relief:

3. The outrageous conduct of defendants described herein was done with malice, fraud, and oppression, with conscious disregard for plaintiff's rights, and with the intent, design and purpose of injuring her. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

4. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

5. The outrageous conduct of defendants described herein was done with malice, fraud, and oppression, with conscious disregard for plaintiff's rights, and with the intent, design and purpose of injuring her. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

6. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

7. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

8. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

9. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

10. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

11. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

12. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

13. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

14. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

15. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

16. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

17. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

18. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

19. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

20. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

21. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

22. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

23. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

24. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

25. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

26. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

27. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

28. Defendants, through their officers, managing agents and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct alleged herein. By reason thereof, plaintiff is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

# EXHIBIT B

Exhibit 44-41

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the employer that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective January 9, 2007 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed with the January 9, 2007 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

### NOTICE OF CASE CLOSURE

Dear MAUREEN E. MCFAADDEN:

MEGAN/APPLERA CORPORATION (AKA) APPLIED BIOSYSTEMS

RE: E200607A0570-01-pc

MAUREEN E. MCFAADDEN  
ATTORNEY AT LAW  
LAW OFFICE OF MAUREEN E. MCFAADDEN  
819 BANCROFT WAY  
BERKELEY, CA 94710

February 20, 2008



STATE OF CALIFORNIA - STATE AND CONSUMER SERVICES AGENCY  
ARNOLD SCHWARZENEGGER, Governor

1515 Clay Street, Suite 701, Oakland, CA 94612  
(510) 622-2973 TTY (800) 700-2320 Fax (510) 622-2952  
www.dfeh.ca.gov

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

Case 3:07-cv-03002-MMC Document 26 Filed 02/29/2008 Page 19 of 22

DFEH-200-43 (06/06)

FOSTER CITY, CA 94508  
850 LINCOLN CENTRE DR.  
AKA APPLIED BIOSYSTEMS  
APPLIED CORPORATION  
HUMAN RESOURCE DIRECTOR

CC: Case File

Herbет Yarborough  
District Administrator



Sincerely,

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Notice of Case Closure  
Page Two

## Exercise 43

STATE OF CALIFORNIA

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING  
1200 17th Street, Suite 1000, Sacramento, CA 95814

DATE FILED:

City

At Berkeley

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11/9/07 Dated

I wish to pursue this matter in court, hereby request that the Department of Fair Employment and Housing provide a right-to-sue notice. I understand that if I went to federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discrimination act, whichever is earlier. I have not been coerced into making this request, nor do I make it based on fear of retaliation. I do not do so, I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Completing Effect of Fair Employment under Penalty of Perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true."

RECEIVED  
NOV 2 2007  
U.S. DISTRICT COURT  
WISCONSIN  
See Attachment A  
Was because of [please state what you believe to be reason(s)]

RECEIVED

**See Attachment A**

you believe to  
be reason(s)]

**Name of Person and Job Title**

The reason given by See Attachment A

COMPLAINT OF DISCRIMINATION UNDER		THE PROVISIONS OF THE CALIFORNIA	FAIR EMPLOYMENT AND HOUSING ACT	THIS IS RELEASED TO DEFENDANT ONLY	CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING	YOUR NAME (Indicate Mr. or Ms.)	Megan Kelly
						TELEPHONE NUMBER (INCLUDE AREA CODE)	510-845-7636

Appellea's constitutes disability discrimination (including as to the terms and conditions of employment) and a failure to accommodate. Appellea's conduct is also retaliatory, based on my having protested the company's discriminatory practices, and for having filed an earlier DFEH charge and lawsuit alleging disability discrimination.

(3) In or about October 2007, Appellea failed to notify me about an official company sponsored barbecue event which the other employees and the leaders of the company attended. If Appellea had given me notice of this event, I would have rearranged my schedule to ensure my attendance at the barbecue.

(2) In or about September 2007, I was not notified of an all-hands employee meeting. I found out about the meeting accidentally, shortly before it was scheduled to begin. I tried to attend the meeting, but found out it had been scheduled for a location that was not accessible to me given my disability, in that it had unsafe stairs, and no elevator.

(1) In or about August 2007, I was shorted 20 hours on my paycheck. I had earned for that time period. Further issues with incorrect pay have continued to occur.

After a leave of absence due to my disability (ankle injury and complications from that injury) I returned to work at Applied Biosystems on or about June 18, 2007. Since my return, the following has occurred:

Megan Kelly/Appellea Corporation

Attachment A

# **EXHIBIT 27**

nt 27-4 Filed 03/11/13 by LE

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386 SAN FRANCISCO DISTRICT OFFICE

## TRADING REVIEWS

UAF 09 2007

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SEARCHED INDEXED SERIALIZED FILED 10/12/2012 BY [Signature]

GENEVA

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## WIRTSCHAFT

19. *Leucosia* *leucostoma* (Fabricius) *leucostoma* (Fabricius) *leucostoma* (Fabricius)

RECORDED BY: [REDACTED]  
DATE: [REDACTED]  
2023 RECORD

1997-1998 AGENDA BUDGETAIRE

CLARKSBURG, PARKERS CITY, CAMPBELL

WANDELS IN THEATRICAL PRACTICE: A LESSON IN 1980S ORGANIZATIONAL ENTERTAINMENT AS A COUNTERCULTURE OF STYLING, GLOSSING, AND DISCHARGING IN GERMANY

2009 HIGH SCHOOL ALUMNIUS #22  
MOSHE LIEBERMAN

1. THE MOVISIUMS OF THE CLAVERIA  
2. AIR DEFENCE AND ROBINS AIR  
3. OWN USE ONLY